THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 14779 of 2007

O r d e r:

The petitioner retired from the service of the respondents-APSRTC as Conductor on 30.06.2006. While he was in service, based on a complaint lodged by some passengers that on 05.10.2005, the petitioner who was his duty on the route Amalapuram – Komaragiripatnam on the bus bearing No. 8855, did not permit their luggage, the 2nd respondent vide order dated 13.10.2005, placed the petitioner under suspension pending enquiry into the charges. The charges leveled against the petitioner are that by not allowing the luggage of the passengers, he had caused loss of revenue to the respondents and that he had behaved in a rude and indifferent manner and disobeyed the orders of the Superintendent (T), Amalapuram, which constituted misconduct as per APSRTC Employees' (Conduct) Regulations, 1963. The petitioner submitted his explanation, but the respondents dis-satisfied with the same, conducted an enquiry. The Enquiry Officer, who conducted the enquiry, submitted report holding that the charges leveled against the petitioner are proved. Based on the enquiry report, the respondents issued notice dated 13.03.2006, calling upon the petitioner to show cause as to why the proposed penalty of reduction of pay by two incremental stages besides treating the period of suspension as "not on duty" for the purpose of leave and increments, should not be imposed. The petitioner submitted his explanation on 23.03.2006. However, it is the case of the petitioner that the 2nd respondent without considering his explanation, has passed final orders dated 24.03.2006, imposing the punishment as proposed by him, in the show cause notice. Aggrieved thereby, the petitioner filed review petition, but the same by reason of the order dated 24.10.2006, impugned in this writ petition, was rejected by the 1st respondent, confirming the order of the 2nd respondent.

The learned counsel for the petitioner submitted that as the length of the bamboo sticks were more than the length of the bus, the petitioner did not permit them to be transported on the roof top of the bus, which is only to avoid accidents. He submitted that the petitioner

merely requested the STI to make an endorsement that he should not be made liable if any accident takes place because of the luggage, which he was ordered to transport on the roof top of the bus, and as such, he cannot be held to have obeyed the orders of the superiors. He submitted that there is no loss of revenue to the respondents, as held by the Enquiry Officer, in his report, for the reason that about 100 passengers traveled in the bus, seventy with tickets and the rest of the 30 were bus pass holders.

He further submitted that the 2nd respondent without considering his explanation properly has imposed the punishment of reduction of pay by two incremental stages besides treating the period of suspension as "not on duty" for the purpose of leave and increments, which was in a similar fashion, confirmed by the 1st respondent, and thus prayed that the impugned order, passed by the 2nd respondent, as confirmed by the 1st respondent in review petition, be set aside.

The learned Standing Counsel for the respondents-APSRTC submitted that the petitioner by not allowing the bamboo sticks to be carried on the roof top of the bus despite orders of the STI, has not only caused loss of revenue to the respondents, but has also disobeyed the orders of the superiors by uttering to "do whatever he likes", and the said charges having been proved, the 2nd respondent after giving opportunity to the petitioner to show cause, has imposed the punishment, as stated in his order, which was confirmed in appeal as well as review petition, and no interference is called for therewith.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents-APSRTC.

The petitioner, did not allege, any irregularities in the conduct of the enquiry. At every stage of enquiry, the petitioner was given opportunity to defend his case.

The charges leveled against the petitioner are that he refused to carry the luggage of five passengers on the roof top of the bus despite directions by his superiors, and that he is said to have retorted rudely to the STI to "do whatever he likes", when he directed the petitioner to permit the carrying of the luggage. The charges leveled against the petitioner stood proved in the enquiry, which held that the petitioner bluntly refused to permit the luggage, that he not only misbehaved with the passengers, but retorted to the on-duty Controller to "do whatever he likes" when he advised him to carry the luggage of the passengers

on the roof top.

By the above conduct of the petitioner, which was proved in the enquiry, the petitioner is said to have not only caused loss of revenue to the respondents, but also tarnished the image of the corporation and also exhibited an insubordinate attitude towards his superiors, which constituted mis-conduct under the APSRTC Employees' (Conduct) Regulations, 1963. Therefore, considering the proved misconduct, the 2nd respondent, upon considering the explanation of the petitioner to the show cause notice, and the intensity of the proved charges, which affected the image of the corporation, imposed the punishment of reduction of pay by two incremental stages besides treating the period of suspension as "not on duty" for the purpose of leave and increments. The appeal preferred by the against the order of the 2nd respondent was rejected as it was filed beyond the period stipulated for preferring. Though the petitioner filed review petition, the 1st respondent considering the grounds taken by the petitioner in the review petitioner, and having regard to the proved misconduct, which had an adverse effect on the image of the corporation, confirmed the order of the 2nd respondent, which imposed the punishment, as indicated supra, and no interference is called for therewith, and more so having regard to the judgment of the apex Court in **Regional Manager, Rajasthan SRTC v. Sohan Lal**[1], wherein it was held that it is not within the normal jurisdiction of the superior courts to interfere with the quantum of sentence imposed by the disciplinary authority unless it is shown that the sentence imposed is wholly disproportionate to the misconduct, and also another judgment of the apex Court in **Karnataka Bank Ltd. V. A.L. Mohan Rao**[2], wherein it was held that it is not for the courts to interfere in cases of gross misconduct of the nature with the decision of the disciplinary authority so long as the inquiry has been fair and proper and misconduct proved, and that in such matter, it is for the disciplinary authority to decide what is the fit punishment.

There is no merit in the writ petition, and the same is accordingly dismissed. No costs.

N.V. RAMANA, J.

Dated: 20th July, 2007.
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[1] (2004) 8 SCC 218

[2] (2006) 1 SCC 63